

An ad hoc group of Australian corporate creditors

Pro Se

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:) Chapter 11
)
CELSIUS NETWORK LLC, *et al.*,¹) Case No. 22-10964 (MG)
)
Debtors.) (Jointly Administered)
)

The Honourable Martin Glenn
Chief Bankruptcy Judge
United States Bankruptcy Court for the Southern District of New York
Alexander Hamilton U.S. Custom House
One Bowling Green New York, NY 10004

Australian corporate creditors have received \$0

Dear Chief Judge Glenn,

Motion:

1. That Celsius be directed to issue Australian corporate creditors with Bitcoin (BTC) and Ether (ETH), not USD cash, for those who remain unpaid their distributions in the amounts of cryptocurrency that they would have received for their claims as at the 15 January 2024 prices fixed by Celsius.
2. In the alternative, that Celsius be directed to issue bankruptcy proceeds to Australian corporate creditors only in USD wire transfers rather than checks.
3. Celsius should appoint a distribution contact to be available to the Australian corporate creditors who are yet to receive their wire transfers to ensure those transfers are affected properly and expeditiously.
4. That Celsius be directed to provide Australian corporate creditors with the MT103 or similar international bank transfer form which shows their attempted failed transfers so that creditors can identify precisely what is causing the failed transfers.

5. If Australian corporate creditors are paid USD cash they reserve their right to seek compensation for the fact that they have been paid USD instead of cryptocurrency and / or for losses they have incurred as a result of the delay in being paid USD.

Reasons for Motion 1:

1. The Plan provided for distributions to be made by way of cryptocurrency (BTC and ETH).
2. Celsius made an arbitrary decision in conjunction with their distribution partner Coinbase to only pay the largest 100 corporate creditors in cryptocurrency.
3. There was no reasonable reason for doing so and this created an inequity amongst creditors including those of the same class (corporate creditors).
4. This inequity has been compounded by the fact that distributions have been delayed for five months now and Australian corporate creditors remain unpaid their distribution. During this time the price of BTC and ETH which Australian corporate creditors should have been paid under the Plan has risen significantly resulting in Australian corporate creditors missing out on significant upside to their investments, which the overwhelming majority of other creditors have had the benefit of.
5. Initially, Australian corporate creditors thought we would be paid our USD cash distribution in a timely manner and could re-invest the funds into cryptocurrency to limit the window in which we were out of the market. However, the delays of making USD cash distributions have thwarted that.
6. We believe in cryptocurrency which is why we invested in Celsius in the first place and wished to remain exposed to cryptocurrency. If we are not paid our claim in cryptocurrency in corresponding amounts as at 14 January 2024 prices we will suffer significant loss.

Reasons for Motion 2 and 3:

1. Australian corporate creditors with SMSFs and trusts have not received their distributions by USD wire transfer some six months after the Effective Date, with the exception of one attempt by Celsius and its distribution partner that we are aware of. That attempt ultimately resulted in the funds being reversed (see Docket # 4985). Many have been notified by Celsius that the attempted transfers failed but all for different reasons.

2. International wire transfers are not complex. Despite arguments to the contrary we have submitted correct wire transfer to the Debtors since we were first requested to do so at the beginning of the year. We have been provided with the appropriate information by our large well known Australian banks who successfully deal with thousands of these transactions daily. Many of us have successfully executed the receipt of funds via international transfers with no problems whatsoever previously.
3. This suggests a systemic failure on the part of Celsius or its distribution partners to execute this for Australian corporate creditors particularly with SMSFs or trusts. The Debtors, its distribution partner Stretto, and/or its new financial institution seem to be experiencing issues with transferring funds to Australian corporate creditors with trusts and SMSFs/retirement accounts. Even though we have supplied them with all the necessary information, it appears that they made a mistake in the trust-related wire transfers and have failed up to this point to send the wire transfers successfully.
4. The Debtors have said that if they are unsuccessful after April 16, 2024, they would send out checks for USD. We have been waiting for weeks and months without any updates.
5. Foreign checks are no longer accepted for cashing by the overwhelming majority of Australian banks. Consider for instance the following:
 - a. <https://www.macquarie.com.au/help/personal/payments-transfers-and-deposits/withdrawals-and-deposits/how-to-deposit-cash-or-cheque-into-your-account.html#:~:text=We%20have%20stopped%20accepting%20foreign.methods%20of%20transferring%20money%20internationally>.
 - b. <https://www.commbank.com.au/international/foreign-cheques-and-international-drafts.html>
6. **If distributions are given to Australian corporate creditors by USD check, we may be unable to cash them** and may not get our owed share under the bankruptcy.
7. Celsius or its distribution partner should take whatever efforts are required to overcome any concerns with paying Australian SMSFs and trusts via wire transfer. It is imperative that this issue be resolved satisfactorily and a standard process put in place since it will similarly affect any future payments in the form of litigation proceeds and other residual funds.
8. We seek that the best way to resolve this is for the Debtors to provide a direct line of contact with a representative of the distribution partner to go through these issues and resolve the making of the international wire transfers to Australian corporate creditors as soon as possible.

Reasons for Motion 4:

1. As noted under Reasons for Motion 1 & 2, many Australian corporate creditors, particularly SMSFs and trusts, have not received their USD wire transfers.
 2. There is likely a systemic issue which Celsius and/or its distribution partners are having with issuing these transfers. There should not be as the recipients have provided the necessary banking details to make the transfers.
 3. In order to establish what error Celsius and/or its distribution partners are making, it should be directed to provide the MT103 or similar international bank transfer form which shows their attempted failed transfers so that they can identify precisely what is causing the failed transfers.
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Addendum

Celsius's Australian corporate creditors have been dealing with similar issues and have been in contact with one another on a daily basis to try to resolve them.

Many of us own self-managed superannuation funds (SMSFs), family trusts, or small companies.

MT103 / SWIFT

- MT103 - Despite having an established protocol in place, the Debtors have failed to process the corporate creditors' wire transfers on schedule. This procedure requires the usage of an MT103, which is a standardised document used by banks or financial institutions throughout the world to handle wire transfers using the SWIFT system. SWIFT transactions typically take 2-5 days to complete.
- These documents should likely show that Celsius is making some simple error when attempting to process the transfers.

Request for Additional Time

- We are concerned that if our wire transfers keep failing and if some corporate creditors can't receive their money within the one-year distribution time-frame, that our money will go into the pool to be dispersed to other creditors. We want an extension of time, for as long as it takes for all of us to get our money back.

Future Recoveries

- There will be future recoveries following litigation and other matters. We don't want to go through all this again.

Yours Sincerely,

Timothy Vann

Digitaurus Pty Ltd ATF Vann Family Superannuation Fund

<https://cases.stretto.com/public/x191/11749/PLEADINGS/1174906112480000000189.pdf>

Claim value \$277,011.49 (USD)

Distribution received \$0

Emmerson Pty Ltd ATF

The Emmerson Family Superannuation Fund

Claim value \$132,254.5 (USD)

Distribution received \$0

Frances Jones

Jones Asset Protection Trust

<https://cases.stretto.com/public/x191/11749/PLEADINGS/1174906052480000000122.pdf>

Claim value \$118,679 (USD)

Distribution received \$0

Coinbase Prime account - Yes

Harrison John Flavell

Flavell Pty Ltd the Trustee for H Flavell Super Fund

<https://cases.stretto.com/public/x191/11749/PLEADINGS/1174907012480000000467.pdf>

Claim value \$104,068 (USD)

Distribution received \$0

Brett Wilks

Wilks SMSF PTY LTD

<https://cases.stretto.com/public/x191/11749/PLEADINGS/117490614248000000046.pdf>

Claim value \$99,424.5 (USD)

Distribution received \$0

Mia Forrest

Good Forrest Super Pty Ltd atf Good Forrest Superfund

<https://cases.stretto.com/public/x191/11749/PLEADINGS/117490612248000000094.pdf>

Claim value \$98,496 (USD)

Distribution received \$0

Mark Vozzo

MVozzo Super Pty Ltd As Trustees For MVozzo Superfund

<https://cases.stretto.com/public/x191/11749/PLEADINGS/1174906242480000000082.pdf>

<https://cases.stretto.com/public/x191/11749/PLEADINGS/1174906142480000000054.pdf>

<https://cases.stretto.com/public/x191/11749/PLEADINGS/1174906112480000000186.pdf>

Claim value \$85,014 (USD)

Distribution received \$0

Coinbase Prime account - Yes

Marlowe Bennett

Paule Bennett Family SMSF Pty Ltd

<https://cases.stretto.com/public/x191/11749/PLEADINGS/1174906132480000000055.pdf>

Claim value \$83,535 (USD)

Distribution received \$0

David Oehme

Oehme Family Super Pty Ltd ATF Oehme Family Superfund

<https://cases.stretto.com/public/x191/11749/PLEADINGS/1174907012480000000461.pdf>

Claim value \$75,832.19 (USD)

Distribution received \$0

Oliver Masens

Masens Super Fund

<https://cases.stretto.com/public/x191/11749/PLEADINGS/1174907012480000000471.pdf>

<https://cases.stretto.com/public/x191/11749/PLEADINGS/1174906122480000000090.pdf>

Claim value \$69,279 (USD)

Distribution received \$0

Ryan Edmonds
R Edmonds Family SMSF

Claim value \$64,026.33 (USD)

Distribution received \$0

Luke Orr
Luke Orr Family Super Fund Pty Ltd
<https://cases.stretto.com/public/x191/11749/PLEADINGS/1174906172480000000092.pdf>

Claim value \$63,186 (USD)

Distribution received \$0

Dyah Neho
Illume Capital Pty Ltd

<https://cases.stretto.com/public/x191/11749/PLEADINGS/1174907012480000000464.pdf>

Claim Value: \$49,503.3 USD

Distribution received \$0

Edward Cetin

Steinberger Pty Ltd ATF Cetin Investments Super Fund
<https://cases.stretto.com/public/x191/11749/PLEADINGS/1174907022480000000701.pdf>

Claim value \$33,811.38 (USD)

Distribution received \$0

Tim Sendall
Sendall Family Retirement Superfund

Claim value \$33589.5 (USD)

Distribution received \$0

Marlowe Bennett
DEKA ANDRES EPENDYOUN INTERNATIONAL INCORPORATED
<https://cases.stretto.com/public/x191/11749/PLEADINGS/1174906132480000000063.pdf>

Claim value \$33,393 (USD)

Distribution received \$0

Paul Colagiuri
Siddhartha Super Pty Ltd atf Colagiuri Superfund
<https://cases.stretto.com/public/x191/11749/PLEADINGS/1174906062480000000036.pdf>

Claim value \$25,375 (USD)

Distribution received \$0

Garcia Suarez superfund pty ltd atf Garcia Suarez superfund

Claim value \$24578.53 (USD)

Distribution received \$0

Enda Murphy,
E & KL Murphy Superfund

<https://cases.stretto.com/public/x191/11749/PLEADINGS/1174906102480000000146.pdf>

Claim value \$22,546 (USD)

Distribution received \$0

Enda Murphy,

Racecentre Pty Ltd

<https://cases.stretto.com/public/x191/11749/PLEADINGS/1174906102480000000157.pdf>

Claim value \$4,338 (USD)

Distribution received \$0

Luca Padalini and Natasha Katherine Cuculovski As Trustee For The NKCANDLP SMSF

<https://cases.stretto.com/public/x191/11749/PLEADINGS/1174903132480000000140.pdf>

<https://cases.stretto.com/public/x191/11749/PLEADINGS/1174904122480000000012.pdf>

Claim value \$12,926 (USD)

Distribution received \$0

Ignazio Lo Castro

Director of XPRUHODL SMSF Pty Ltd ATF XPRUHODL SMSF

<https://cases.stretto.com/public/x191/11749/PLEADINGS/1174906202480000000126.pdf>

<https://cases.stretto.com/public/x191/11749/PLEADINGS/1174906262480000000021.pdf>

Claim value \$ (USD)

Distribution received \$0